

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

CHARLES T. LATKO, JR.  
AND LOIS G. LATKO

COMPLAINANTS

v.

TAYLOR COUNTY RURAL ELECTRIC  
COOPERATIVE CORPORATION

RESPONDENT

CASE NO. 2003-00395

**RESPONDENT'S ANSWERS TO INTERROGATORIES**

Respondent, Taylor County Rural Electric Cooperative Corporation, provides the following Answers to Interrogatories propounded to it upon behalf of Complainants:

**INTERROGATORY NO. 1:** Identify all individuals who are providing answers to these interrogatories.

**ANSWER:** Barry L. Myers, Manager, Taylor County RECC.

**INTERROGATORY NO. 2:** Identify all individuals from whom facts pertinent to providing answers to these Interrogatories, were obtained, and the specific Interrogatories for which each provided such answers or information.

**ANSWER:** Information necessary to formulate answers to these Interrogatories was requested of, and provided by, the following: Barry L. Myers, Manager, Taylor

County RECC; Paul Rogers, Instrument Man, Taylor County RECC; Mike Skaggs, System Engineer, Taylor County RECC; Dennis Bay, Service Man, Taylor County RECC; Keith Clements, Service Man, Taylor County RECC; J. D. Biggs, Construction Superintendent, Taylor County RECC.

**INTERROGATORY NO. 3:** Identify each and every witness, lay and expert, you expect to call to testify at trial and state the nature and purpose of each such witness's expected testimony.

**ANSWER:** At the present time, Respondent is reasonably certain that Mr. Myers, its Manager, and Mike Skaggs, its System Engineer, will testify at the hearing to be conducted in this matter. The exact nature of the proposed testimony of these witnesses continues to evolve and their pre-filed testimony, which is to be filed on or before March 26, 2004, will reflect the nature of that testimony. Inasmuch as Complainants have the burden in this proceeding, Respondent reserves the right to identify such additional witnesses as may be necessary to rebut or impeach any evidence presented upon behalf of Complainants as that may be disclosed as a part of their pre-filed testimony.

**INTERROGATORY NO. 4:** How many utility lines are currently connected, attached to or on the "creek pole"? Describe the purpose of each such line.

**ANSWER:** The "creek pole" has attached to it the following:

1. Three phase conductors which are a part of Respondent's system.

2. One neutral conductor which is a part of Respondent's system.
3. One No. 4 triplex service conductor which serves the Latko property.
4. One No. 4 triplex service conductor which serves an inactive meter pole on the Cox property.
5. One cable conductor belonging to Comcast.
6. Two telephone conductors belonging to Alltel.

**INTERROGATORY NO. 5:** When were the guy wires that currently are attached to the Latko property installed? What is the purpose of such guy wires?

**ANSWER:** The "creek pole", as that originally existed, was first installed in 1946, although Respondent does not have drawings to reflect the exact nature of that installation. In 1968, as a part of work order 21869, the subject pole was changed out as a part of a conversion from single-phase to a three-phase service. At that time, the "creek pole" was anchored upon what is now known as the Latko property. The purpose of that guying is to counteract conductor longitudinal forces or tensions (thus keeping the pole from being moved from its upright position).

Again in 1983, the "creek pole" was resituated, and new anchors would have been installed in approximately the same location as were the 1968 anchors. The guying circumstances have not changed since 1983, so that Taylor County RECC currently has 2 anchor rods with three guys on the Latko property; and Alltel has two twineye anchor rods with 4 guys on the Latko property.

**INTERROGATORY NO. 6:** Please state when, where and why you installed “4 additional ground rods to the grounding grid of the three-phase pole which is the primary subject of the Latko’s complaint”?

**ANSWER:** On or about March 4, 2003, the Respondent, in the exercise of its only feasible responsive option directed to parts of the Latko complaints (other than those having to do with traffic hazards, automobile accidents, and the like) installed 4 additional grounds rods in an effort to reduce ground resistance levels at the pole such that this path would become the preferred route for lightning to go to ground in the event that this pole were struck.

**INTERROGATORY NO. 7:** With reference to the real property of Samuel Cox, upon which the “creek pole” is situated, state all reasons why you have not exercised powers of eminent domain under the Kentucky Revised Statutes or other legal authority, to obtain an easement to relocate the “creek pole”.

**ANSWER:** Respondent’s counsel has advised that Respondent cannot meet the statutory pre-requisites for the exercise of its power of eminent domain.

**INTERROGATORY NO. 8:** State all the reasons why the “creek pole”

- (A) Cannot be relocated within the currently existing utility easement on the real property of Samuel Cox;
- (B) Has not been relocated within the currently existing utility easement on the real property of Samuel Cox;

**ANSWER:**

(A) Respondent has no express (written) easement upon, across or with respect to the property now owned by Samuel Cox. We are advised by counsel that our easement privileges on that property are thus limited by operation of law, and that we lack legal basis for modifying/expanding upon the use of those easement privileges.

(B) See Answer to Interrogatory No. 8 (A).

**INTERROGATORY NO. 9:** Describe all manner by which you, from and since 2002, attempted to obtain an additional utility easement on Samuel Cox property in order to relocated the "creek pole". Identify all individuals who made any contact with Samuel Cox or his agents, or who conducted such communication(s) on your behalf.

**ANSWER:** Throughout the process of dealing with the Latko's complaint, both Paul Rogers and Mike Skaggs have talked with Samuel Cox about modification/ expansion of Respondent's easement privileges upon the property of Mr. Cox, but Mr. Cox declined any arrangement which would have provided Respondent with the means by which to relocate the "creek pole".

**INTERROGATORY NO. 10:** State how much distance remains in the utility easement where the "creek pole" is located, between the "creek pole" and the remainder of the remainder (sic) of the Samuel Cox property in the direction away from the creek bank.

**ANSWER:** The Interrogatory is essentially unintelligible, but if inquiry is made as to the approximate distance between the creek pole and the road (which line would traverse the property of Cox) that distance is perhaps 100 feet.

**INTERROGATORY NO. 11:** When the “creek pole” was relocated in 1983, as indicated in your pleadings, was it relocated within an existing utility easement on the real property of Samuel Cox? If so, please state what communications were made with the then property owner to relocate “creek pole”. If not, please state what steps were taken to lawfully relocated the “creek pole” on said property.

**ANSWER:** See Answer to Interrogatory No. 8 regarding the nature of Respondent’s easement privileges on and across the property of Mr. Cox, who purchased the tract in question from his father in February, 1982. When the pole was relocated in 1983, it is probable that, consistent with its policy, a representative of Respondent would have communicated with Mr. Cox to advise him of the proposed Work Order and to obtain his verbal permission to complete that project. However, because the persons who would have undertaken such communication are no longer employed by Respondent, Respondent cannot document the nature of such communications as were had with Mr. Cox at that time.

**INTERROGATORY NO. 12:** In attempting to resolve or considering the problem pertaining to the Latkos’ complaint, describes all the options considered by you or brought to your attention. State which options were implemented, why they were implemented and when they were implemented. For options that were not implemented state why each such option was not implemented and identify the individual(s) who made the decision not to implement same.

**ANSWER:** Option No. 1 was to relocate the subject pole some 30 feet or more up line. That option would have required a grant from Mr. Cox, which he was unwilling to give. Option No. 2 was to relocate the pole in or about the state right-of-way, but this would have created an extremely dangerous situation for traffic using the highway, and it would also have changed the geometry of our facilities so as to require guying on Cox's property, which Cox would not permit. Option No. 3 was to rework the subject pole, going from a tangent structure to a angled structure. As a part of that option, a new pole would be set near Cox's drive, and the pole across Highway 337 from the Latko residence would be reworked in order to enable the re-routing from primary service, thereby removing primary service from the creek pole. The creek pole would continue to exist, except its capacity would then have been that of a service pole. Service would then have run from the reworked primary pole, across Highway 337 from the Latko residence, to the subject pole, and then to the Latko residence. That option, once again, would have required a grant or grants from Cox, to which he would not agree. Option No. 4 was to improve pole ground in an attempt to make the pole's ground the "preferred" route for transients. See Answer to Interrogatory No. 6.

**INTERROGATORY NO. 13:** In your letter of January 10, 2003, from Mike Skaggs to Charles Latko, Mr. Skaggs stated that with reference to relocation of the "three-phase line to a location across the road" from the Latko property, that "...due to circumstances beyond TCRECC's control, we were unable to proceed with this resolution". State what these "circumstances" were, how you came to find out about

such circumstances, and what prior steps you took, if any, to investigate the possibility of relocating the "creek pole" in that manner.

**ANSWER:** See Answer to Interrogatory No. 12.

**INTERROGATORY NO. 14:** Attached to these Interrogatories is a single page consisting of two photographs. Complainants state these photographs were recently taken showing the location of the creek and its bank immediately in front of the creek pole. Please identify:

- A. What appears to be a metal rod hanging off or on the side of the creek bank.
- B. What the purpose of this rod is.
- C. When this rod was first installed and how far from the edge of the creek bank it was installed.
- D. Describe in detail how such a rod is installed.
- E. Does the position of the rod, as shown in the photographs, comply with your requirements or standards for installation and maintenance of such item? If the requirements or standards, please explain.
- F. Have any repairs been effected recently to the rod? If so, when was this done and what was done?
- G. What is the reason this rod is exposed as shown in the photographs?
- H. Do any other grounding measures for the creek pole currently exist, in exist, in view of the condition of the rod shown in the attached photographs?

**ANSWER:**

- A. That appears to be an old anchor rod.
- B. Presumably at some point in the past a down guy was attached to this anchor rod.
- C. Respondent has no knowledge of the installation of this anchor rod.



- D. A hole is bored in the ground; the rod is attached to the anchor; the assembly is dropped into the hole; the anchor is expanded by manual means; small trench is dug near the hole to allow for rod to rest at an angle up to the pole attachment point; pole is backfilled and tamped.
- E. Respondent cannot determine whether such anchor rod would have been installed by this Respondent, or by another joint user, and thus Respondent cannot speak to the installation and maintenance of same. It is possible that such anchor rod may have attached to the original (A) four single-phase pole that existed at the time of the 1968 work order. Perhaps as a part of that work order, that anchor rod may not have been taken up as it may not have been reachable. Ideally, that anchor rod would have been removed by the entity responsible for its installation, but it is entirely speculative as to how that may have happened
- F. Not to the knowledge of Respondent.
- G. One would presume that the exposed portion of this anchor rod evidences some form of erosion since 1968.
- H. The rod in question is not a ground rod, only an anchor rod. This pole is grounded via normal procedure, and without reference to the rod in question.

**INTERROGATORY NO. 15-A:** Please state what the purpose was of each of the visits made to the subject property and/or the creek pole by representatives of your company on March 8, 2004. Also identify each individual who made such visit(s), what they did while on such visit(s), and whether any photographs or measurements were taken at that time.

**ANSWER:** On the morning of March 8, 2004, Barry L. Myers, Paul Rogers, and Mike Skaggs visited the site in further preparation for the hearing in this proceeding. At that time, Mr. Myers went to the Latko residence, which now appears to be occupied by a daughter of the Latkos, to advise her of the identity and purpose of those present. The daughter then insisted that Mr. Myers enter the residence and talk on the telephone to her mother, and a short telephone conference ensued.

During the course of that visit on the morning of March 8, 2004, those present observed a broken ground wire, which was subsequently repaired. No photographs were taken at that time, and those present did confirm the approximate distance from the "creek pole" to the creek bank.

**INTERROGATORY NO. 15-B:** Please state whether representatives of your company have, from and after March 9, 2004 to the date you answer these Interrogatories, made any visits to the subject property and/or the creek pole. Identify each individual who made such visit(s), what they did while on such visit(s), and whether any photographs or measurements were taken at that time.

**ANSWER:** Paul Rogers revisited the site on March 11, 2004, in conjunction with his preparation of information which would be utilized in answering these Interrogatories.

**INTERROGATORY NO. 16:** What has been the number of lightning strikes, since 1988, on each of the following:

- (A) the creek pole?
- (B) the pole and/or transformer located directly across Bradfordsville Rd. from the Latko property?
- (C) the pole and/or transformer located at the corner of Rt. 337 and Rt. 744?

**ANSWER:**

- (A) One of which Respondent is aware occurring on or about July 20, 2002, which resulted in the change out of the top set of bells. On September 22, 2003, the bottom bell shorted out on a rainy morning. Scott Cochran investigated that reported outage.

- (B) The Respondent has no knowledge of lightening strikes at that location, but the Latkos claim, in a February 10, 2002 letter to Respondent, that such pole was hit.
- (C) No information.

**INTERROGATORY NO.17:** When you installed four additional ground rods to the grounding grid of the three-phase pole that is involved in this Complaint, describe the significance of the exiting pole ground resistance levels(ohms) having dropped.

**ANSWER:** See Answer to Interrogatory No. 6.

**INTERROGATORY NO.18:** In the email from Mike Skaggs to John Land dated March 27, 2003, Mr. Skaggs stated "...the bank has eroded approximately 2' over the last 20 years."

- (A) Do you or Mr. Skaggs know whether the rate of erosion over each of the last 20 years was constant?
- (B) If the rate erosion over last 20 years has not been constant, or if you do not know whether such rate has been constant, state what the rate of erosion was for each of the past 20 years.

**ANSWER:**

- (A) No.
- (B) Don't know. Respondent is unaware of any major topographical or road changes which would have caused the erosion rate to increase over the years. However, the work that the Latkos have completed on the bank on their side of the creek may have diverted the current to the opposite bank.

Respectfully submitted,

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By 

Robert Spragens, Jr., Counsel for  
Taylor County Rural Electric  
Cooperative Corporation

The undersigned, Barry L. Myers, Manager, Taylor County Rural Electric Cooperative Corporation, states that he has reviewed the foregoing Answers to Interrogatories and that said Answers are true as verily he believes.

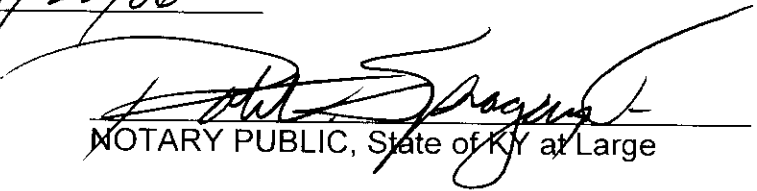
  
Barry L. Myers, Manager

STATE OF KENTUCKY

COUNTY OF MARION

Subscribed and sworn to before me by Barry L. Myers, as Manager, Taylor County Rural Electric Cooperative Corporation, on this 19<sup>th</sup> day of March, 2004.

My Commission expires: 9/22/06

  
NOTARY PUBLIC, State of Ky at Large

I hereby certify that a true copy of  
the foregoing Answer to Interrogatories  
was mailed this 19<sup>th</sup> day of March, 2004, to:

Roland P. Merkel, Esq.  
Roland P. Merkel, P.S.C.  
332 Capitol Avenue  
Frankfort, KY 40601  
**Attorney for Complainants**



Robert Spragens, Jr.